

### REMARKS

Claims 1-20 are pending in the application. Claims 1-20 have been rejected.

Claims 1-2, 4-6, 12-13, 15-16, and 18-19 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,031,990 to Sivakumar et al. ("Sivakumar"). Claims 3, 7-8, 14, 17 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Sivakumar in view of U.S. Patent No. 5,671,351 to Wild et al. ("Wild"). Claims 9-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Sivakumar in view of Wild and further in view of JUnit 3.7 ("JUnit").

Applicants respectfully traverse the rejection of independent claims 1, 12, 15 and 18 under 35 U.S.C. §102(b) as being anticipated by Sivakumar. Examiner asserts that Sivakumar discloses a method for tracking unit tests of a software application, said method "comprising the steps of: (a) conducting unit tests on a software application, said unit tests ordered under hierarchical groupings (column 3, lines 8-9 "A Test Hierarchy"); and (b) tracking said unit tests so as to capture a result of each said unit tests and a hierarchical position of each said unit tests within said hierarchical groupings (column 2, lines 58-61 "A "test case" ... records the result")."

For convenience, column 3, lines 8-9, of Sivakumar is set forth below:

The term "test" will be used herein to refer to test classes as well as test cases. A test hierarchy often mirrors the design of a software application that is being tested.

and column 2, lines 58-61, of Sivakumar is set forth below:

... "test cases", which are used to verify the correctness of one or more functions of a software application. A "test case" is a procedure that verifies a certain function of the software application and records the result (e.g., pass, fail, test unrunnable). It is the smallest unit in a tree hierarchy created by the test management system. (emphasis added.)

Applicants accept Examiner's assertion that the "test cases" of Sivakumar are organized in a hierarchy tree. However, Applicant's respectfully disagree with Examiner's assertion that the "unit in a tree hierarchy" is equivalent to the "hierarchical position of each unit test" claimed by Applicant. Skilled practitioners of the art would consider the cited reference as merely describing a "test case" that happens to reside in a tree hierarchy and not equivalent to providing "a hierarchical position of each said unit tests within said hierarchical groupings."

Regarding the rejection of claims 2, 13, 16 and 19, Examiner asserts that Sivakumar discloses the step of “outputting the hierarchical position of each of said unit tests in association with the corresponding results.” Upon careful review of Sivakumar, no references were found to “outputting the hierarchical position of each of said unit tests in association with the corresponding results.” While Applicant’s concur with Examiner that Sivakumar includes a reference to “generate output information . . . applied to one or more output devices” [Column 10 Lines 66-67], the cited reference fails to teach “outputting the hierarchical position of each of said unit tests.”

In the response to Applicant’s previous arguments, Examiner states that “Sivakumar clearly discloses capturing the hierarchical position of the test cases (e.g., column 4, lines 33-41 “information about the parent test class and child test classes and classes at any level in the hierarchy ... are available”).” Applicants respectfully disagree.

As before, Sivakumar, column 4, lines 33-41 are cited below for convenience:

When setup, cleanup, or pass-fail commands defined at a test case or class are executed, or when the run command of a test case is executed, contextual information such as the hierarchy information (i.e., information about the parent test class and child test classes and cases at any level in the hierarchy) as well as result information (pass or fail) about these test cases and classes are available to the test in the form of environment variables and API commands defined by the test management system. This information allows finer control of the execution of the test and its rules based on the position of the test in the hierarchy. (emphasis added)

Applicants concur with Examiner that “contextual information” referenced by the first underscored passage provides “information about the parent test class and child test classes and cases at any level in the hierarchy”. However, as evidenced by the second underscored passage, Sivakumar does not capture the position of a unit test (the “test case”) within a test hierarchy. Instead, the “contextual information” of Sivakumar is only “available in the form of environment variables and API commands defined by the test management system.” Those of skill in the art would not consider the two to be equivalent. Specifically, providing information related to a unit test (the “test case”) within a test hierarchy “in the form of environment variables and API commands” is not the same as providing the position of the unit test within the test hierarchy. More specifically, skilled practitioners of the art would further posit that it would

not be obvious that “finer control of the execution of the test and its rules based on the position of the test in the hierarchy,” would provide the unit test’s position within the test hierarchy. Instead, the “contextual information” would only provide “finer control” within the context of the previously referenced “environment variables and API commands defined by the test management system.” Accordingly, it would be difficult to provide a convincing argument contrary to Applicant’s assertion that “the cited portion ... does not disclose capturing the ‘hierarchical position’ of each unit test within a grouping.”

For the reasons set forth above, Applicants respectfully submit that Sivakumar fails to disclose all of the limitations recited in independent claims 1, 12, 15, and 18. Therefore the rejection of the aforementioned independent claims under 35 U.S.C. §102(b) should be removed and these claims should be allowed. Furthermore, all pending dependent claims are allowable as being dependent on an allowable base claim.

### CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the examiner is requested to telephone the undersigned at 512-338-9100.

CERTIFICATE OF TRANSMISSION

I hereby certify that on October 15, 2008 this correspondence is being transmitted via the U.S. Patent & Trademark Office’s electronic filing system.

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Respectfully submitted,

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